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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,623	07/02/2003	John G. Kucera	025636-0114	4042
26371	7590	05/19/2005		
FOLEY & LARDNER 777 EAST WISCONSIN AVENUE SUITE 3800 MILWAUKEE, WI 53202-5308			EXAMINER JIANG, CHEN WEN	
			ART UNIT 3744	PAPER NUMBER

DATE MAILED: 05/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.		Applicant(s)	
	10/612,623		KUCERA, JOHN G.	
	Examiner		Art Unit	
	Chen-Wen Jiang		3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-11 and 13-20 is/are pending in the application.
- 4a) Of the above claim(s) 1-5, 7-11 and 13-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group III (claims 17-20) in the reply filed on 2/25/2005 is acknowledged. The traversal is on the ground(s) that "All of the claims are directed toward an evaporative cooler having a evaporative media". This is not found persuasive because "evaporative cooler" in the subcombination only appears in the preamble. Applicant is advised to include the "evaporative cooler" in the claim itself or link the claim to the preamble since applicant admits the claims are directed to the evaporative cooler. These three groups of claims become three distinct inventions of evaporative cooler when "evaporative cooler" is in the claims. In the Office Action mailed 1/25/2005 indicated the other application of the subcombination and didn't imply the "filter" is claimed by the Applicant.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 17,19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koble (U.S. Patent Number 3,197,183) in view of Morrison et al. (Des. 244,691) and further in view of Kinkel (U.S. Patent Number 6,367,277).

Koble discloses an evaporative cooler as shown in Figs. 1, 3 and 6. Referring to Fig. 1, the cooler comprises a housing having a water sump, a blower 16 and a pad 18 may be pivoted outwardly into a solid line position and may be disposed in a broken line position A wherein the outer side of the pad 18 is substantially flush with the outer side of the cooler frame. Referring to Fig. 6, a conventional pivot pin 31 is located at one side of the evaporative cooler frame at opposite sides of the opening in which the pad frame is pivotally mounted. However, Koble does not disclose details of the pad frame and the width of the pad. Morrison et al. disclose a pad panel (Figs. 2 and 3) having first and second flanges extending inwardly toward one another from the front and rear walls for the purpose of supporting pad. Kinkel discloses the pad can extend across the entire width of the housing. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the apparatus of Koble with a panel frame of Morrison et al. and width of Kinkel for the structure design of an evaporative cooler. In regarding to the media cabinet being removable, the pin will be removed first and the pad can be slid down and then lift the pad from the housing.

4. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Koble/Morrison/Kinkel as applied to claim 17 above, and further in view of Meek (U.S. Patent Number 3,395,900) or Lundin et al. (U.S. Patent Number 6,409,157).

Koble/Morrison/Kinkel discloses the invention substantially as claimed. However, Koble/Morrison/Kinkel does not disclose cooling media material. Meek and Lundin et al. disclose rigid cooling media in the same field of endeavor for the purpose of providing water to airflow. Therefore, it would have been obvious to one having ordinary skill in the art at the time

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the invention was made to provide the apparatus of Koble/Morrison/Kinkel with a rigid cooling media in view of Meek or Lundin et al. so as to supply water.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chen-Wen Jiang whose telephone number is (571) 272-4809. The examiner can normally be reached on Tuesday-Friday from 8:00 to 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on (571) 272-4834. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Chen-Wen Jiang
Primary Examiner

A handwritten signature in black ink, appearing to be 'C. W. Jiang', written in a cursive style.